mination, in a single suit, numerous independent rights of action at law by many persons against one. Apparently this conflict has arisen from the peculiar facts and circumstances of the individual cases. The result has been the drawing of many minute distinctions of law and fact. It seems settled in the federal courts and, to a certain extent in some of the states, that, in the absence of a controlling precedent, the court will exercise a sound discretion and so decide the case, in the light of its peculiar circumstances, as to secure the greatest ultimate justice for all parties. *Hale* v. *Allison,* 188 U. S. 56; *Bitterman* v. *Louisville & N. R. Co.,* 207 U. S. 205; *Wyman* v. *Bowman,* 62 C. C. A. 189, 127 Fed. 257; *Kingsbury* v. *Flowers,* 65 Ala. 479, 39 Am. Rep. 14; *American Cent. Ins. Co.* v. *Landau,* 56 N. J. Eq. 513, 39 Atl. 400; *Johnson* v. *Black,* 103 Va. 477, 49 S. E. 633, 106 Am. St. Rep. 890, 68 L. R. A. 264; *Dixie Fire Ins. Co.* v. *American Confec. Co.* (Tenn.), 136 S. W. 915, 34 L. R. A. (N. S.) 897. The state courts are divided on the question, the weight of authority holding that a mere community of interest in the questions of law and fact involved will not give equity jurisdiction to prevent a multiplicity of suits. *Vandalia Coal Co.* v. *Lawson,* 43 Ind. App. 226, 87 N. E. 47; *Southern Steel Co.* v. *Hopkins,* 174 Ala. 465, 57 So. 11; *Cumberland Telephone Co.* v. *Williamson,* 101 Miss. 1, 57 So. 559. The contrary is held in the following cases. *Bitterman* v. *L. & N. R. R. Co., supra; American Cent. Ins. Co.* v. *Landau, supra; Milwaukee Electric Ry. & Light Co.* v. *Bradley,* 108 Wis. 467, 84 N. W. 870. It is generally held that where there is a community of interest in the subject matter involved and not merely in the questions of law and fact, or where there is in litigation a common right or title, equity has jurisdiction to decide the whole matter in a single suit. *Osborne* v. *Wisconsin Cent. R. Co.,* 43 Fed. 824; *Illinois Cent. Ry. Co.* v. *Garrison,* 81 Miss. 257, 32 So. 996, 95 Am. St. Rep. 469; *Cleveland* v. *Insurance Co.,* 151 Ala. 191, 44 So. 37. And likewise, where equity obtains jurisdiction on grounds other than the prevention of a multiplicity of suits, it will join all the parties in one suit and proceed to give complete relief to all. *Southern Pacific Co.* v. *Robinson,* 132 Cal. 408, 64 Pac. 572, 12 L. R. A. (N. S.) 497; *Dixie Fire Ins. Co.* v. *American Confec. Co., supra.*

LANDLORD AND TENANT—DUTY OF LANDLORD—DELIVERY OF POSSESSION.—The defendant leased land for a term of years to the plaintiff. Upon the beginning of the lessee's term, the land was in possession of a prior lessee wrongfully holding over his expired term. Plaintiff sued defendant for his breach of an implied covenant to deliver the possession of the land. *Held,* it is the landlord's duty to put the tenant in possession and not merely to give him the right to possession. *Cleveland, etc., Ry. Co.* v. *Joyce* (Ind.), 103 N. E. 354.

This case follows the so-called "English Rule," holding that the landlord must make a delivery of possession, rather than forcing the tenant to look to his right to an action of ejectment against the tenant wrongfully holding over. The reason for this rule is that one who accepts a lease expects to enjoy the property, not merely a chance of a lawsuit. A lease is a chattel and the prime motive of the contract is

that the lessee shall have possession. *Coe* v. *Clay,* 5 Bing. 440; *King* v. *Reynolds,* 67 Ala. 229, 42 Am. Rep. 107; *Sloan* v. *Hart,* 150 N. C. 269, 63 S. E. 1037, 134 Am. St. Rep. 911, 21 L. R. A. (N. S.) 239; *Herpolsheimer* v. *Christopher,* 76 Neb. 352, 111 N. W. 359, 9 L. R. A. (N. S.) 1127, 14 Ann. Cas. 399; *Hertzberg* v. *Belsenbach,* 64 Tex. 262.

The "American Rule" holds that there is no duty upon the landlord to put the tenant in possession. The latter being clothed with the title by virtue of the lease, has his right to pursue such legal remedies as the law has provided for gaining possession. *Gardner* v. *Keteltas,* 3 Hill (N. Y.) 330, 38 Am. Dec. 637; *Cozens* v. *Stevenson* (Pa.), 5 Serg. & R. 421; *Sigmund* v. *Howard Bank,* 29 Md. 324; *Gazzolo* v. *Chambers,* 73 Ill. 79; *Playter* v. *Cunningham,* 21 Cal. 229; *Mirsky* v. *Horowitz,* 46 Misc. 257, 92 N. Y. Supp. 48. It would seem that it is the duty of the landlord to put the tenant in possession of the leased premises.

LIBEL AND SLANDER—REPORT OF JUDICIAL PROCEEDINGS—MAGISTRATE WITHOUT JURISDICTION.—Defendant published a report of an argument held in open court before a magistrate who had general jurisdiction of the matter under inquiry but not proper jurisdiction of the accused's person, and the latter sued for libel. Under a statute, reports of judicial proceedings were qualifiedly privileged. *Held,* a judicial proceeding within the libel statute. *Lee* v. *Brooklyn Union Pub. Co.* (N. Y.), 103 N. E. 155.

That reports of judicial proceedings are qualifiedly privileged is an established rule of the common law. *Hoare* v. *Silverlock,* 9 C. B. 20. But the early English cases and some of the early American ones, following the English decisions, held that reports of proceedings, *ex parte* or *inter partes,* before magistrates do not come within the rule. *Duncan* v. *Thwaites,* 3 B. & C. 556; *Stanley* v. *Webb,* 6 N. Y. Super. Ct. (4 Sandf.) 21, 2 Code Rep. 153; *Cincinnati Gazette Co.* v. *Timberlake,* 10 Ohio St. 548, 78 Am. Dec. 285.

When, however, statutes expressly made magistrates' courts open and public, which they had not been entirely in earlier years, the judges changed their views and for the public good recognized proceedings in such courts as judicial. *McBee* v. *Fulton,* 47 Md. 403, 28 Am. Rep. 465; *Bissell* v. *Press Pub. Co.,* 62 Hun. 551, 17 N. Y. Supp. 393; *Flues* v. *New Nonpareil Co.* (Iowa), 135 N. W. 1083.

The principal case appears to be one of novel impression in America, but there are several English cases that strongly support the decision. In the first of these it was held that a full and correct report of proceedings taking place before a magistrate on the preliminary investigation of a criminal charge terminating in the discharge of the accused, was privileged. *Lewis* v. *Levy,* El. Bl. & El. 537.

A second case, practically in point, decides that a report of an *ex parte* proceeding before a police magistrate, in a matter over which he has no jurisdiction and dismissed by him for that cause, is qualifiedly privileged. *Usill* v. *Hales,* L. R. 3 C. P. D. 319. A later case strongly upholds this decision. *Kimber* v. *Press Assn.,* L. R. [1893] 1 Q. B. 65.

The point is well taken in the principal case, that if the proceeding